

SUBCHAPTER G—POSTAGE METERS

PART 501—AUTHORIZATION TO MANUFACTURE AND DISTRIBUTE POSTAGE METERS

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AUTHORITY: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 410, 2601, 2605; Inspector General Act of 1978, as amended (Pub. L. 95-452, as amended), 5 U.S.C. App. 3.

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§501.1 Manufacturer authorization.

Any person or concern seeking authorization to manufacture and distribute postage meters must submit a request to the Postal Service in person or in writing. Upon qualification and approval, the applicant is authorized in writing to manufacture meters and to lease them to persons licensed accordingly by the Postal Service. The Postal Service may specify the functional area charged with processing the application and administering its meter program.

§501.2 Manufacturer qualification.

Any concern wanting authorization to manufacture and/or lease postage meters for use by licensees under Domestic Mail Manual P030.1.2 must:

- (a) Satisfy the Postal Service of its integrity and financial responsibility;
- (b) Obtain approval of at least one meter model incorporating all the features and safeguards specified in §501.6;
- (c) Have, or establish, and keep under its supervision and control adequate manufacturing facilities suitable to carry out the provisions of §§501.15 through 501.20 to the satisfaction of the Postal Service (such facilities must be subject to unannounced inspection by representatives of the Postal Service); and
- (d) Have, or establish, and keep adequate facilities for the control, distribution, and maintenance of meters and their replacement when necessary.

§501.3 Changes in ownership or control.

Any person or concern wanting to acquire ownership or control of an authorized postage meter manufacturer must provide the Postal Service with satisfactory evidence of that person's or concern's integrity and financial responsibility.

§501.4 Burden of proof standard.

The burden of proof is on the Postal Service in adjudications of suspension and revocation under §§501.5 and 501.12 and administrative sanctions under §§501.14 and 501.23. Except as otherwise indicated in those sections, the standard of proof shall be the preponderance-of-evidence standard.

§501.5 Suspension and revocation of authorization.

- (a) The Postal Service may suspend and/or revoke authorization to manufacture and/or distribute any or all of a manufacturer's postage meters if the manufacturer engages in any unlawful scheme or enterprise, fails to comply with any provision in this part 501, or fails to implement instructions issued in accordance with any final decision

issued by the Postal Service within its authority over the meter program.

(b) The decision to suspend or revoke a manufacturer's authorization shall be based on the nature and circumstances of the violation (whether the violation was willful, whether the manufacturer voluntarily admitted to the violation, whether the manufacturer cooperated with the Postal Service, whether the manufacturer implemented successful remedial measures) and on the manufacturer's performance history. Before determining whether a manufacturer's authorization to manufacture and/or distribute meters should be revoked, the procedures in paragraph (c) of this section shall be followed.

(c) Suspension in all cases shall be as follows:

(1) Upon determination by the Postal Service that a manufacturer is in violation of the provisions in this part 501, the Postal Service shall issue a written notice of proposed suspension citing deficiencies for which suspension of authorization to manufacture and/or distribute a specific meter or class of meters may be imposed under paragraph (c)(2) of this section. Except in cases of willful violation, the manufacturer shall be given an opportunity to correct deficiencies and achieve compliance with all requirements within a time limit corresponding to the potential risk to postal revenue.

(2) In cases of willful violation, or if the Postal Service determines that the manufacturer has failed to correct cited deficiencies within the specified time limit, the Postal Service shall issue a written notice setting forth the facts and reasons for the decision to suspend and the effective date if a written defense is not presented as provided in paragraph (d) of this section.

(3) If, upon consideration of the defense as provided in paragraph (e) of this section, the Postal Service deems that the suspension is warranted, the suspension shall remain in effect for up to 90 days unless withdrawn by the Postal Service, as provided in paragraph (c)(4)(iii) of this section.

(4) At the end of the 90-day suspension, the Postal Service may:

(i) Extend the suspension in order to allow more time for investigation or to

allow the manufacturer to correct the problem;

(ii) Make a determination to revoke authorization to manufacture and/or distribute the manufacturer's meters in part or in whole; or

(iii) Withdraw the suspension based on identification and implementation of a satisfactory solution to the problem. Manufacturer suspensions may be withdrawn before the end of the 90-day period if the Postal Service determines that the manufacturer's solution and implementation are satisfactory.

(d) The manufacturer may present the Postal Service with a written defense to any suspension or revocation determination within 30 calendar days of receiving the written notice (unless a shorter period is deemed necessary). The defense must include all supporting evidence and state with specificity the reasons for which the order should not be imposed.

(e) After receipt and consideration of the defense, the Postal Service shall advise the manufacturer of the decision and the facts and reasons for it. The decision shall be effective on receipt unless it provides otherwise. The decision shall also advise the manufacturer that it may appeal that determination within 30 calendar days of receiving written notice (unless a shorter time frame is deemed necessary), as specified therein. The appeal must include all supporting evidence and state with specificity the reasons the manufacturer believes that the decision is erroneous.

(f) An order or final decision under this section does not preclude any other criminal or civil statutory, common law, or administrative remedy that is available by law to the Postal Service, the United States, or any other person or concern.

§501.6 Specifications.

Postage meters must incorporate all the following features and safeguards:

(a) A postage meter is the postage printing die and postage registering mechanism of a mailing machine. It may be integral with the mailing machine or separable. In either case, the licensee must be able to take the meter to the post office for setting or examination.